

REMARKS

Claims 1–20 were previously pending in the application, of which, claim 19 has been amended. No new matter has been added by way of the foregoing amendments. Reconsideration of presently pending claims 1–20 is respectfully requested in light of the above amendments and the following remarks.

Interview Summary

Applicants' Attorney, Liem Do, called the Examiner on May 29, 2008 regarding inconsistencies and missing information in the Office Action dated May 21, 2008. For example, the Office Action indicated that claims 1 and 13 contain allowable subject matter but recites limitations ("...calculating memory instances ratios based on the inputs and displaying the memory instance ratios on a web page") that are not included in the claims. (Office Action, pg. 2). Moreover, the Office Action indicated that claims 10 and 17 were directed at allowable subject matter and would be allowed if rewritten in independent form. (Office Action, pg. 2). However, claims 10 and 17 depend from base claims 1 and 13, respectively, which were indicated as containing allowable subject matter. Further, in the Office Action Summary sheet, the summary indicated that all the claims 1-20 have been rejected. However, the only rejections in the Office Action are of claims 19-20 rejected under 35 U.S.C. §101 as discussed below. (Office Action, pg. 2). In response, the Examiner indicated that the allowable subject matter is what is stated in the Office Action as allowable, and that the rejected claims are what is stated in the Office Action as rejected. Accordingly, Applicants respond below under the assumption that claims 1-18 contain allowable subject matter, and that claims 19-20 stand rejected under 35 U.S.C. §101.

Allowable Subject Matter

Noted with appreciation is the indication in the Office Action that independent claims 1 and 13 contain allowable subject matter. (Office Action, pg. 2). Further, the Office Action also indicated that claims 10 and 17 are directed at allowable subject matter and would be allowed if rewritten in independent form. (Office Action, pg. 2). However, claims 10 and 17 depend from independent claims 1 and 13, respectively. According, claims 10 and 17 do not need to be

rewritten in independent form since these claims depend from base claims that have been indicated as containing allowable subject matter.

Rejections under 35 U.S.C. § 101

Claims 19-20 were rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. The Examiner indicated that “Claims 19-20, draws [sic] limitations to a system of software per se...[s]oftware per se claims are not considered to be statutory subject matter.” (Office Action, pg. 2).

35 U.S.C. §101 provides:

Whoever invents or discovers any new and useful process,
machine, manufacture, or composition of matter, or any new and
useful improvement thereof, may obtain a patent therefore, subject
to the conditions and requirements of this title.

Therefore, the first inquiry in determining whether a claimed invention is patentable is to determine if the invention as claimed falls within one of the four enumerated categories identified in 35 U.S.C. §101; namely, process, machine, manufacture, or composition of matter. However, if the claimed invention does fall within any of those enumerated categories, then an inquiry must be made to determine if the claimed invention is directed to a judicial exception to patented subject matter – laws of nature, natural phenomena, and abstract ideas (non-patentable subject matter), or a practical application of a judicial exception (patentable subject matter). (See MPEP §2106(IV)).

Here, in the present application, claims 19-20 are directed to a “system for providing a combination datasheet to a remote computer, the system comprising one or more servers having a plurality of memory compiler units wherein each memory compiler unit comprises a program for assisting a multi-compiler interface to generate a combination datasheet wherein the combination datasheet comprises memory instances created by at least two of the plurality of memory compiler units.” (Emphasis added). Accordingly, a system that includes “one or more servers having a plurality of memory compiler units...,” the system for providing a combination datasheet to a remote computer falls within one of the enumerated categories of §101 (e.g., process/machine), and is not a law of nature, a natural phenomena, nor an abstract idea.

Further, as provided in MPEP §2106.01(I)

Computer programs are often recited as part of a claim. USPTO personnel should determine whether the computer program is being claimed as part of an otherwise statutory manufacture or machine. In such a case, the claims remains statutory irrespective of the fact that a computer program is included in the claim. The same result occurs when a computer program is used in a computerized process where the computer executes the instructions set forth in the computer program. Only when the claimed invention taken as a whole is directed to a mere program listing, i.e., to only its description or expression, it is descriptive per se and hence nonstatutory. (Emphasis added).

Thus, claims 19-20 are directed to statutory subject matter and the rejection under 35 U.S.C. §101 should be withdrawn.

Conclusion

For at least the reasons set forth above, Applicants submit that the pending claims 1-20 are in condition for allowance. Accordingly, Applicants respectfully request that the Examiner withdraw the outstanding rejections and issue a formal notice of allowance.

Should the Examiner deem that an interview with Applicants' undersigned Attorney would expedite consideration, the Examiner is invited to call the undersigned attorney at the telephone number indicated below.

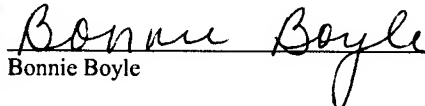
Respectfully submitted,



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I hereby certify that this correspondence is being filed with the U.S. Patent and Trademark Office via EFS-Web on <u>June 9, 2008</u> .
 Bonnie Boyle